

Notice of Allowability

Application No.

10/631,029

Examiner

Raymond J. Henley III

Applicant(s)

SINGH ET AL.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on September 18, 2007 (the 9/17/07 amdt. is not entered).
2. ☒ The allowed claim(s) is/are 1, 9, 11-16, 18-27, 32, 34, 39, 40, 43 and 45-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Drawings filed July 29, 2003 are Acceptable

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20071008.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Raymond J. Henley III
Raymond J. Henley III
Primary Examiner
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Examiner's Comments Regarding Applicants' Amendments

Applicants' amendments filed September 17, 2007 and September 18, 2007 have been received.

In a telephone call on or about September 18, 2007, Applicants' representatives inform the Examiner that a second amendment had been filed and that it was this amendment that was to be considered.

As is clear from the record, the amendment filed September 18, 2007 is not an amendment supplemental to the amendment filed September 17, 2007, e.g., claim 1 is canceled by the September 17, 2007 amendment but is re-introduced and amended by the September 18, 2007 amendment.

Applicants' September 17, 2007 Amendment is Vacated

By the filing of the amendment on September 18, 2007, it is clear that Applicants intended it to be a substitute for the amendment filed September 17, 2007. Accordingly, the Examiner deems that the amendment filed September 17, 2007 is **vacated** by the action of Applicants in filing a second, non-supplemental amendment.

While the Office has not addressed a specific policy in the handling of substitute replies, the above would appear to be proper given the Office's policy on the handling of supplemental replies under MPEP § 714.03 and 37 C.F.R. § 1.111(a)(2).

In particular, while the entry of a supplemental amendment is not entered as a matter of right, it may be entered under a variety of circumstances. Such circumstances include (a) cancellation of claims, (b) adoption of the Examiner's suggestions or (c) placement of the

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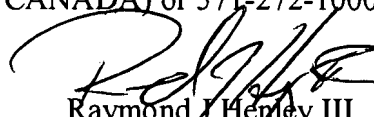
application in condition for allowance. These circumstances are present in Applicants' second filed amendment and thus it is deemed proper that the first filed reply be vacated.

The amendment filed September 18, 2007 has been entered and the claims and specification have been amended as indicated therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Henley III whose telephone number is 571-272-0575. The examiner can normally be reached on M-F, 8:30 am to 4:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Raymond J. Henley III
Primary Examiner
Art Unit 1614

October 8, 2007